

(Draft - Awaiting Formal Approval)
**MINUTES OF THE
LEGISLATIVE RECORDS COMMITTEE**
Monday, August 20, 2012 – 8:00 a.m. – Room 450 Capitol Building

Members Present:

President Michael G. Waddoups
Sen. Ross I. Romero
Speaker Rebecca D. Lockhart
Rep. David Litvack

Staff Present:

Ms. Rebecca Rockwell, Associate General Counsel
Mr. Phil Dean, Policy Analyst
Ms. Jennifer Christopherson, Legislative Secretary

Note: A list of others present, a copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. Committee Business

Pres. Waddoups called the meeting to order at 8:14 a.m.

MOTION: Rep. Litvack moved to approve the minutes of the August 6, 2012 meeting. The motion passed unanimously.

Pres. Waddoups read a letter from Speaker Lockhart requesting the ability to participate in the meeting from a remote location. Pres. Waddoups and Speaker Lockhart approved Speaker Lockhart's request and convened an electronic meeting.

2. Review of GRAMA Appeal by the Utah Democratic Party

Mr. Joseph Hatch, attorney, Utah Democratic Party, expressed sorrow for the loss of Jim Judd. Pres. Waddoups also expressed his condolences. Mr. Hatch then addressed the Democratic Party's appeal and posed the question that if the Democratic Party's request is not in the public's interest then what request ever is?

Sen. Romero clarified to the witnesses that the nature of the testimony that the committee is looking for is to answer whether or not the Democratic Party's request is primarily in the public's interest.

Joel Campbell, Associate Professor of Communications, Brigham Young University, was sworn in by Ms. Rockwell. He stated that the public has the right to alter their government as they see fit and that it is their responsibility to do so. Mr. Campbell said that every citizen has the right to inspect any record free of charge. He responded to questions from the committee saying that the government has the right to charge fees when frivolous requests are made and not for requests where the general public is benefitted.

Robert Huefner, Professor Emeritus, Political Science Department, University of Utah, was sworn in by Ms. Rockwell. He stated that the value of public record searches should be balanced against their costs. Mr. Huefner said that the procedures that make information available should be easy to understand and administered fairly. He provided a copy of his statement to the committee.

Maryann Martindale, Executive Director, Alliance for a Better Utah, was sworn in by Ms. Rockwell. She said that government and the people are not two distinct entities. She stated that government is the people, formed by the people, and is elected to do the business of the people. She responded to questions from the committee and said that it was clear that the public was very engaged in the redistricting process.

Jenny Pathak, Represent Me Utah, was sworn in by Ms. Rockwell. She stated that many things were done in public during the process of redistricting but that the Democratic Party requested information through the Government Records Access and Management Act (GRAMA) and was told that fees would not be waived

because it was not in the benefit of the public. She said that members from Represent Me Utah requested records and were denied a fee waiver.

Glenn Wright, Fair Boundaries, was sworn in by Ms. Rockwell. He requested the release of the documents with no further fees. He stated that the redistricting process is supposed to be an open process and that it is time for the Legislature to do the right thing. He responded to questions from the committee and said that during the redistricting process he was not denied any requested information.

Matt Lyon, Executive Director, Democratic Party, was sworn in by Ms. Rockwell. He stated that the Democratic Party's request is clearly in the public's interest and that the documents are the only way the public can look back and understand why redistricting was done in the way that it was. He said that there is a lack of understanding in the public as to why certain decisions were made.

Robert Rees, attorney, Office of Legislative Research and General Counsel (OLRGC), said that the OLRGC has nothing against the Democratic Party and that the decision to deny the fee waiver was made based on policy and procedure. He stated that the question is not if public records should be released, but if fees related to compiling those records should be waived. Mr. Rees explained that legislative policy allows, but does not require, a fee waiver if the release of the records primarily benefits the public. Therefore, one of the main questions is if the release of these records primarily benefits the public or the Democratic Party. He responded to questions from the committee and said that in this particular instance it opens the process up for potential abuse.

Sen. Romero stated that he never saw the letter requesting that the Legislature reimburse the Democratic Party for their previous payment.

Thomas Wright, Chairman, Republican Party, was sworn in by Ms. Rockwell. He spoke about the Republican Party's GRAMA request and explained that the Republican Party made a narrow request to not tie up government resources and that they posted all of the documents online within 24 hours. He said that the Democratic Party is trying to make this a campaign issue. He responded to questions from the committee and said that the public benefits as a by product but that all political parties are partisan. Mr. Wright stated that the Republican Party would pay the fees related to the request if certain actions were taken by the Democratic Party.

Mr. Hatch stated that the Democratic Party has the ability to write the check but that they should not have to. He responded to questions from the committee and said that the box that the Democratic Party has received contains documents that had already previously been made public and that they do not know what is contained in the other two boxes.

Robert Comstock, Chairman of the Education Caucus, Democratic Party, was sworn in by Ms. Rockwell. He spoke about whether the end justifies the means and that the point is being missed. He stated that the right to information is synonymous to freedom of speech and freedom of the press.

Ken Froehly, veteran, was sworn in by Ms. Rockwell. He stated that he attended many meetings for redistricting and listened to many citizens testify about how concerned they were. He said that the way the redistricting process occurred was not what the people wanted.

Mr. Hatch gave closing remarks and said that the goal of the Democratic Party is to get the documents out to the public and that the best way to assess whether the Legislature did a good job in the redistricting process is at the ballot box.

Mr. Rees gave closing remarks and stated that the size of the fee is a function of the breadth of the request. He said that the committee is not being asked if the documents would benefit the public, but if the fees should be waived and if the release of the documents would primarily benefit the public rather than the requester.

MOTION: Sen. Romero moved to reverse the decision of the OLRGC to not provide a fee waiver and to grant a waiver of the fees above the amount already paid and require that the additional documents be handed over to the Democratic Party.

Committee discussion followed.

The motion failed with Chair Waddoups, Sen. Litvack, and Speaker Lockhart voting in opposition.

Ms. Rockwell read from the legislative management policy the following: "If the Legislative Records Committee fails to issue a decision within 57 calendar days of the filing of the notice of appeal, that failure shall be considered the equivalent of an order denying the appeal. The petitioner shall notify the Legislative Records Committee in writing if the petitioner considers the appeal denied."

4. Other Business / Adjourn

MOTION: Rep. Litvack moved to adjourn the meeting. The motion passed unanimously.

Chair Waddoups adjourned the meeting at 10:24 a.m.